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Marina Larson & Associates, LLC P.O. BOX 4928 DILLON, CO 80435				
EXAMINER				
BRAHAN, THOMAS J				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,552

Applicant(s)

WOODHAMS, MAX DANIEL

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 5, 7, 10-13 and 15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 2, 4, 5, 7, 10-13 and 15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

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1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a hand control with a planar contact surface, as now recited in claim 1, must be shown, or the feature must be canceled from the claims. No new matter may be entered.

2. If corrected drawing sheets are submitted to overcome the above objection, they must be in compliance with 37 CFR 1.121(d) and are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended”. If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d).

3. If the changes are not accepted by the examiner, because for example introducing new matter, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 10 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The specification fails to provide a basis for the subject matter of claim 10 in combination with the embodiment now recited in claim 1. It fails to discuss a hand control having a planar contact surface along with side surfaces which are configured to permit smooth contact by the side of a user's hand. The last two lines of page 9 of the specification recite that “the interface has a substantially planar or slightly curved upper surface 27”. This statement, taken alone, could be interpreted as disclosing two different interfaces, i.e., a first embodiment having a planar upper surface and a second embodiment having a curved upper surface, or it could be interpreted as disclosing one embodiment which has an interface with an upper surface that is close to planar and slightly curved. However the specification states that it is substantially planar **or** slightly curved. It does not state that it is substantially planar **and** slightly curved. Furthermore, the drawings show a significant curvature to the

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surface which can not be considered as substantially planar. Therefore the statement at the last two lines of page 9 of the specification has been interpreted in the light of the overall disclosure, as being drawn to two different embodiments, only one of which is shown in the drawing figures. The specification also fails to provide a basis for the subject matter of claim 11 in combination with subject matter of amended claim 1. It fails to discuss a hand control having a planar contact surface along with a contacting surface underlying at least 50% of the area of the user's palm. This feature was only discussed with respect to the embodiment having a curved upper contact with side surfaces merging in to the side surfaces for smooth contact.

6. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

7. Claims 1, 2, 4, 5, 7, 10, 11 and 15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 1, lines 6-8, recite "said hand control having a substantially planar palm contacting surface which forms a substantial extension of the plane of said upper surface (sic) the armrest to which the hand control is mounted". Besides the grammar error, it is unclear as to how applicant is considering the upwardly angled plane of the hand control forms as an "extension" of the substantially horizontal plane of the upper surface of the armrest. It is not coplanar with the armrest surface, as to be an considered as extension in that manner. It is not completely continuous with the armrest surface, as was the curved hand control, as to be considered as an extension in that manner.
- b. In claim 5, the term "said control interface" lacks antecedent basis within the claims.
- c. In claim 10, it is unclear as to how the applicant is considering the embodiment having a planar contact surface, as now recited in claim 1, as also including side surfaces which are configured to permit smooth contact by the side of a user's hand. It appears as though only the curved surface embodiment would have smooth contact between all the surfaces.
- d. In claim 11, it is unclear as to how the applicant is considering the embodiment having a planar contact surface, as now recited in claim 1, as also having a palm contacting surface underlying at least 50% of the area of the user's palm. This feature was only discussed with respect to the embodiment having a curved upper contact with side surfaces merging in to the side surfaces for smooth contact.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claim 1, as best understood, is rejected under 35 U.S.C. § 102(b) as being anticipated by Decelles et al. Drawing figure 17 of Decelles et al shows a stairlift chair including a pair of armrests (one of which is shown in the drawing), each of the armrests having an upper surface; and a hand control (button 68) mounted on one of said armrests and being displaceable with respect to the armrest on which the hand control is mounted to effect movement of a stairlift (motor 59 moving stair climbing spiders 60 and 61 into position) on which the stairlift chair is mounted, wherein the hand control is, in normal use, angled upwardly out of the plane defined, by the upper surface of the armrest to which the hand control is attached, the hand control having a substantially planar palm contacting surface which forms a substantial extension of the plane of said upper surface the armrest to which the hand control is mounted, as claim 1 is best understood.

11. Claim 1, as best understood, is rejected under 35 U.S.C. § 102(b) as being anticipated by Ooms et al. Ooms et al shows a stairlift chair including a pair of armrests (33), each of the armrests having an upper surface; and a hand control (35) mounted on one of the armrests and being displaceable with respect to the armrest on which the hand control is mounted to effect movement of a stairlift on which the stairlift chair is mounted, wherein the hand control is, in normal use, angled upwardly out of the plane defined, by the upper surface of the armrest (33) to which said hand control is attached, the hand control having a substantially planar palm contacting surface (with a slight curvature as to be “planar to the same degree as applicant's use to the term is best understood) which forms a substantial extension of the plane of the upper surface the armrest (33) to which said hand control is mounted.

12. Claims 1, 4 and 10, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Watkins et al. Figure 1A of Watkins et al shows a stairlift chair including a pair of armrests, each of the said armrests having an upper surface; and a hand control (push buttons 30 on console 18) mounted on one of the armrests and being displaceable (when pushed downwards) with respect to the armrest on which the hand control is mounted to effect movement of a stairlift on which the stairlift chair is mounted, wherein the hand control is, in normal use, angled upwardly out of the plane defined, by the upper surface of the armrest to which the hand control is attached, the hand control having a substantially planar contacting surface (inherently capable of

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contacting the user's palm) which forms a substantial extension of the plane of the upper surface the armrest to which the hand control is mounted, as the term extension is best understood.

The hand control (20) has side surfaces aligned substantially perpendicularly to the palm contacting surface, note the push buttons have a square shape, as recited in claim 4. The hand control further comprises side surfaces of the hand controls (30) permit smooth contact by the side of a user's hand, to the same degree as applicant's control has smooth contact, as claim 10 is best understood.

13. Claims 12 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Tasker et al. Tasker et al shows a stairlift comprising a stairlift chair (15), the chair having a pair of armrests; a manually engageable and displaceable hand control (toggle switch 20) mounted on one of said armrests and being displaceable with respect to the armrest on which it is mounted to effect movement of the stairlift, the hand control including a body member engageable by a user's hand wherein said body member is formed in two parts (the moving part and its mounting part) which are displaceable with respect to one another such that, in a first configuration of the two parts, said hand control is inactive.

The body parts differ visually and/or provides a different tactile sensation to the user's hand than when in different operative configurations (positions) as recited in claim 13.

14. Claims 12 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Voves et al. Voves et al shows a stairlift comprising a stairlift chair (22), the chair having a pair of armrests (44); a manually engageable and displaceable hand control (one of control switches 170) mounted on one of the armrests and being displaceable with respect to the armrest on which it is mounted to effect movement of the stairlift, the hand control including a body member (46) engageable by a user's hand wherein said body member is formed in two parts (the moving part 46 and its mounting part) which are displaceable with respect to one another such that, in a first configuration of the two parts, the hand control is inactive (due to mercury switch 172).

The body parts differ visually and/or provides a different tactile sensation to the user's hand than when in different operative configurations (positions) as recited in claim 13.

15. Claim 2, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ooms et al in view of Altorf et al. Ooms et al shows the basic claimed chair for climbing chairs, as detailed above, it varies from claim 2 as the armrest and the hand control are not pivotable about a substantially vertical axis. Altorf et al shows a similar chair with an armrest (11) which pivots about a vertical axis (14). It would have been obvious to one of ordinary skill at the time the invention was made by applicant to have the armrests of Ooms et al pivot about a vertical axis, for ease of entering the chair by the user, as taught by Altorf et al.

16. Claim 2, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Watkins et al in view of Altorf et al. Watkins et al shows the basic claimed chair for climbing chairs, as detailed above, it varies

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from claim 2 as the armrest and the hand control are not pivotable about a substantially vertical axis. Altorf et al shows a similar chair with an armrest (11) which pivots about a vertical axis (14). It would have been obvious to one of ordinary skill at the time the invention was made by applicant to have the armrests of Watkins et al pivot about a vertical axis, for ease of entering the chair by the user, as taught by Altorf et al.

17. Claim 5, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ooms et al in view of Grippi. Ooms et al shows the basic claimed chair for climbing chairs, as detailed above, it varies from claim 5 as the hand control is not adjustable along the longitudinal axis of the armrest. Grippi shows a similar chair with an armrest having a longitudinally adjustable control. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to have the control (35) of Ooms et al mounted as to be adjustable along the longitudinal axis of the armrest, for adjustment based on the most comfortable position for the user's hand, as taught by Grippi.

18. Claim 5, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Watkins et al in view of Grippi. Watkins et al shows the basic claimed chair for climbing chairs, as detailed above, it varies from claim 5 as the hand control is not adjustable along the longitudinal axis of the armrest. Grippi shows a similar chair with an armrest having a longitudinally adjustable control. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to have the controls (30) of Watkins et al mounted as to be adjustable along the longitudinal axis of the armrest, for adjustment based on the most comfortable position for the user's hand, as taught by Grippi.

19. Claims 7, 12 and 13, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Watkins et al. Watkins et al shows the basic claimed chair for climbing stairs, as detailed above. It has four push buttons (30) and it discloses various power isolation modes, (shutting down the voice input mode, shutting down the tilt and elevation mode, and shutting down the entire device. Although the reference does not specify the functions for each of the push buttons, it would have been obvious to one of ordinary skill at the time the invention was made by applicant to have at least one of the four buttons as the controls for these power isolation modes.

The hand control is formed in two parts which are displaceable with respect to one another such that, in a first configuration of the two parts, the hand control interface is inactive, as recited in claim 12. When the two body parts are in said first configuration, the resulting form of said body differs visually and provides a different tactile sensation to the user's hand, as recited in claim 13.

20. Claim 11, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ooms et al. Ooms et al shows the basic claimed chair for climbing stairs, as discussed above. Increasing the size of the button (35) as to have it underlie at least 50% of the area of a user's palm, as recited in claim 11, would have been an

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obvious design expedient, as to make it easier for a handicapped individual to use, which would have been within the limits of routine skill in the art at the time the invention was made by applicant.

21. Claim 11, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Decelles et al. Decelles et al shows the basic claimed chair for climbing stairs, as discussed above. Increasing the size of the button (68) as to have it underlie at least 50% of the area of a user's palm, as recited in claim 11, would have been an obvious design expedient, as to make it easier for a handicapped individual to use, which would have been within the limits of routine skill in the art at the time the invention was made by applicant.

22. Claim 15, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Watkins et al in view of Muranka. Watkins et al shows the basic claimed chair for climbing stairs, it has a sensor to detect the weight of the user, see column 9, lines 16-19, but varies from claim 15 by not using the lack of a sensed weight to shutdown the controls and movement of the chair. Muranka shows a similar weight sensor (23c) which has an unoccupied chair shutdown the device. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to have the weight measuring sensor arrangement of Watkins et al shut down the stair climber when no user weight is sensed, to prevent inadvertent movements of the chair, as taught by Muranka.

23. Claim 15, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ooms et al in view of Muranka. Ooms et al shows the basic claimed chair for climbing stairs, but lacks a sensor to detect the weight of the user to shutdown the controls and movement of the chair. Muranka shows a similar weight sensor (23c) which has an unoccupied chair shutdown the device. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to provide the chair of Ooms et al with a seat sensor arrangement to shut down the stair climber when no user weight is sensed, to prevent inadvertent movements of the chair, as taught by Muranka.

24. Applicant's remarks in the amendment filed July 18, 2008, have been fully considered, but are deemed moot in view of the above new rejections. The amendment necessitated the new grounds by amending the claims to include a planar upper surface for the hand control, accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

25. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Mr. Peter Cuomo, can

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be reached at (571) 272-6856. The fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thomas J. Brahan/
Primary Examiner, Art Unit 3654